121 FERC ¶ 61,114
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Wyoming Interstate Company, Ltd. Docket No. RP07-699-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS AND ESTABLISHING TECHNICAL CONFERENCE

(Issued October 31, 2007)

1. On September 19, 2007, in Docket No. RP07-699-000, Wyoming Interstate Company, Ltd. (WIC) filed tariff sheets[1] to revise its fuel tracking mechanism. WIC proposes that the tariff sheets become effective November 1, 2007. As discussed below, the Commission accepts and suspends the revised tariff sheets to be effective April 1, 2008, subject to the outcome of a technical conference to address the issues raised in these proceedings.

2. WIC's current tariff provides for the reimbursement of fuel gas quantities (fuel gas) and lost and unaccounted for gas quantities (L&U)—collectively referred to as FL&U—through a volumetric true-up mechanism. WIC calculates and files with the Commission FL&U reimbursement percentages at least annually. In this filing, WIC proposes to change the methodology for calculating the FL&U reimbursement percentage to include the tracking of changes in the value as well as the volumetric tracking of quantities used and retained (i.e., gas in kind).

3. In addition, WIC proposes to incorporate into its FL&U calculation the net cost or revenue of gas balancing activities. In support of its proposed expansion of FL&U adjustments to include gas balancing operations, WIC argues that real-time under-collected (or over-collected) quantities must be part of the overall gas balance of the

[1] Twelfth Revised Sheet No. 37A, Eleventh Revised Sheet No. 37C, Third Revised Sheet No. 39C, Ninth Revised Sheet No. 83, First Revised Sheet No. 83A, Original Sheet 83A.01, and Original Sheet No. 83A.02 to its FERC Gas Tariff, Second Revised Volume No. 2.

system and must come from purchases, or be taken from linepack, support shipper imbalances, or operational balancing agreements. It states that the over- or under-collection of fuel and related gas balance impacts have both a volume and a dollar impact on WIC and its shippers. WIC also states that it includes the cost of service related to capitalized line pack in its base transportation rates, but when these assets vary (i.e., by WIC's having to purchase or sell gas to correct imbalances) the costs of such encroachments are not reflected in the base rates.

4. With regard to the mechanics of its proposal, WIC states that it will calculate the components of the sources and distributions of fuel and gas balance-related activity as a dollar value by using actual cash amounts paid/received or by multiplying the over- or under-recovered volume by the appropriate price for the month the activity occurred. WIC notes that credit or debit activity that has an actual value (i.e., operational purchases and sales) will be recorded at the actual value and that shipper imbalance cash-out activity will be shown at the cash-out index price because penalty amounts above cash out are otherwise returned to shippers. Operational balancing agreement cash-out prices will be accounted for according to the operational balancing agreement contracts. In addition, WIC states that when converting the total annual cost/revenue adjustment amount back to a volumetric basis for inclusion in the retention percentages, the sum of the monthly dollar-values will be divided by the average cash-out index price for the entire data collection period in order to generate a volume that is equivalent to the cost or revenue impact of the total gas balance related items.

5. WIC states that the workpapers supporting its planned recovery mechanism will detail all sources and distributions of gas including FL&U over/under recovery and that any financial impacts of such measure will be credited to shippers and/or charged to shippers as a true-up in the L&U component of the reimbursement percentages. Any transportation service that is not assessed a fuel charge will still be charged the true-up reimbursement via the adjustment of the L&U retention percentages.

6. WIC requests a November 1, 2007, effective date. WIC also requests the true-up quantities to be allocated to the L&U reimbursement component of the FL&U percentages, which is to be effective December 1, 2008, include the cost and revenue true-up based on a data collection period of September 1, 2007 through August 31, 2008. For the true-up quantities to be allocated after December 1, 2008, the data collection period will coincide with the period for the FL&U adjustment.

Public Notice, Intervention and Comments

7. Notice of WIC's filing was issued on September 21, 2007. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 385.210 (2007). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2007), all timely-filed motions to intervene and any motions to intervene out-of-time before the issuance date of this order are granted. Granting late intervention at this stage of the

proceeding will not disrupt this proceeding or place additional burdens on existing parties. On October 1, 2007, Williams Power Company, Inc. (Williams) and Indicated Shippers[2] each filed protests. On October 15, 2007, WIC filed an answer to Williams' and Indicated Shippers' protests. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept WIC's answer and will, therefore, reject it.

8. Williams states that WIC's proposed cost/revenue and volumetric true-up feature will improperly spread the cost of shippers' transportation imbalances to all customers through an adjustment of the L&U retention percentages. Williams argues that L&U should only reflect what cannot be appropriately ascribed to transportation services at the shipper level or in the aggregate, noting that WIC currently can and does track transportation imbalances at the shipper level and by performing at least daily system balances. Furthermore, Williams states that if the Commission accepts WIC's true-up proposal, its appropriate place is in the fuel charge, not the L&U retention percentages, because the L&U percentages should not reflect financial consequences of timing differences of specific shipper imbalances. Williams also states that the proposed true-up adjustment does not keep WIC and its shippers economically neutral because the value of the adjustment uses actual prices paid or received to determine net gas quantities, but the true-up quantity is determined by the average cash-out index price.

9. In their protest, Indicated Shippers state that WIC has not demonstrated that it is not already recovering its system balancing costs, including linepack, in its existing rates. Indicated Shippers argue that linepack is a rate base item, already accounted for in WIC's rates and, therefore, WIC must wait until its next general rate case to propose an adjustment.

10. Additionally, Indicated Shippers state that WIC's proposal, which it refers to as a system balancing surcharge, improperly aggregates fundamentally different types of costs—specifically fuel costs and system balancing costs. Indicated Shippers argue that including both elements in one surcharge would impair the ability of the Commission and shippers to review the two types of costs. In addition to complicating the fuel filings, Indicated Shippers state that combining the fuel costs and system balancing costs in one surcharge would allocate costs in a manner that fails to reflect each shipper's responsibility for the costs. They state that while fuel should be allocated on a volumetric basis, system balancing costs should not be allocated based on volume; instead, they should be allocated based on each shipper's imbalances to properly reflect the cost incurrence associated with the imbalance.

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[2] The Indicated Shippers are BP Energy Company, BP America Production Company, and Marathon Oil Corporation.

11. To the extent the Commission accepts WIC's proposed true-up method, Indicated Shippers argue that the Commission should require WIC to purchase or sell the replacement gas in the following month. Indicated Shippers also state that if WIC chooses not to balance its system in the following month, it should be deemed to have balanced its system during that month, such that the prices used to calculate the system balancing surcharge are the gas prices in the month following the month the imbalance occurred. Indicated Shippers argue that this monthly balancing is needed to ensure that excessive costs are not allocated to shippers because of unilateral decisions by WIC as to when it purchases or sells operational gas. Finally, Indicated Shippers argue that WIC must rely on competitive bidding to purchase operational gas in order to ensure that its operational gas costs are as low as possible.

Commission Determination

12. The Commission has reviewed WIC's filing in Docket No. RP07-699-000, as well as the protests filed in that docket, and finds that WIC's proposal to modify its existing FL&U true-up mechanism raises numerous issues, including technical, engineering and operational issues, which are best addressed at a technical conference.

13. Since it is not possible to determine, at this juncture, whether or how WIC's existing FL&U and balancing provisions should be changed, the conference will afford the Commission Staff and the parties to the proceeding an opportunity to discuss all of the issues raised by WIC's proposal. Specifically, WIC should be prepared to address all the concerns raised in the protests, and if necessary, to provide additional technical, engineering and operational support for its proposals. Any party proposing alternatives, such as a cost-savings sharing mechanism, to WIC's proposals should also be prepared to similarly support its position. Finally, based upon its analysis of the information provided in this proceeding, the Commission Staff may issue data requests prior to the technical conference, or a notice of the technical conference may contain questions that need to be addressed by WIC or other parties at the conference.

14. Based upon a review of the filings, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept such tariff sheets for filing and suspend their effectiveness for the full statutory period, subject to the conditions set forth in this order.

15. The Commission's policy regarding tariff filing suspensions is that such filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards. *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension). It is recognized, however, that shorter suspensions may be warranted in circumstances where suspensions for the maximum period may lead to harsh and inequitable results. *See*

Valley Gas Transmission, Inc., 12 FERC ¶ 61,197 (1980) (one-day suspension). No such circumstances exist here. Therefore, the Commission will exercise its discretion to suspend the rates to take effect on April 1, 2008 (or some earlier date if directed in a subsequent order), subject to the conditions set forth in the body of this order and in the ordering paragraphs below.

The Commission orders:

(A) WIC's tariff sheets referenced in footnote 1 are accepted and suspended to be effective April 1, 2008 (or some earlier date if directed in a subsequent order), subject to the outcome of the technical conference established by the order.

(B) The Commission's staff is directed to convene a technical conference to address the issues raised by WIC's filings and report the results of the conference to the Commission within 120 days of the date this order issues.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.